

JUN 15 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 15, 1993

BY MESSENGER

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: ET Docket No. 93-59 / RM-8092

Dear Ms. Searcy:

On behalf of the Consolidated Clients of Wilkinson, Barker, Knauer & Quinn, I am enclosing an original and four copies of "Comments" on the Notice of Proposed Rule Making and Notice of Inquiry in the above-referenced proceeding (FCC 93-136, released April 1, 1993).

Please contact the undersigned should you have any questions concerning this filing.

Yours very sincerely,


Lawrence J. Movshin

cc: Dr. Thomas Stanley (w/enc)
Mr. David Siddal (w/enc)
Mr. Carl Huie (w/enc)

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 15 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 2.106 of) ET Docket No. 93-59
the Commission's Rules to) RM-8092
Allocate Spectrum for Wind)
Profiler Radar Systems)
)

To: The Commission

**COMMENTS OF THE CONSOLIDATED CLIENTS
OF
WILKINSON, BARKER, KNAUER & QUINN**

Wilkinson, Barker, Knauer & Quinn (WBK&Q), on behalf of its clients^{1/} (the "Consolidated Clients") hereby comments on the Commission's Notice of Proposed Rule Making and Notice of Inquiry (FCC 93-136, released April 1, 1993) in the above captioned proceeding. The Consolidated Clients interests lie primarily in the proposals discussed in the Notice of Inquiry (NOI) portion of the proceeding, and these comments are therefore limited to those matters. For the reasons discussed below, the Consolidated Clients urge the Commission not to increase the allocation of spectrum for Wind Profile Radar systems (WPRs) into the proposed portion of the 900 MHz band.

The Consolidated Clients represent a broad swath of the entrepreneurial interests who have developed, or are in the process of developing, low power, unlicensed communications products which operate in the 902-928 MHz band authorized for

^{1/} The clients participating in this filing are KNOGO Corporation, Hauppauge, Long Island, HTS™, Englewood, Colorado, Domestic Automation Company, San Carlos, California, and VTech Communications, Beaverton, Oregon.

such use under Part 15 of the Commission's rules.^{2/} These products include cordless telephony, anti-theft devices, low power controllers, local area networks, and other communications products that have been, or in the future "wireless" arena are likely to become staples of consumer and business users. The very filing of Radian's Petition for Rulemaking has had some effect on their future planning, and the release of the NOI has had a further chilling impact. Their interests in establishing a firmer understanding as to the future allocation of this band and the consequences of its use are therefore significant.

In the NPRM/NOI, the Commission has proposed to establish a new spectrum allocation for WPRs. WPRs are sensitive Doppler radars that measure wind speed and direction at a variety of altitudes. WPRs have the potential for many publicly beneficial uses, including the collection of timely and accurate atmospheric data for use in the aviation industry, particularly around airports and the collection of data relating to the movement of air masses containing potentially dangerous pollutants. Experimental WPR systems have been operated under government auspices, while Radian was proposing to market such systems for non-government use as well.

Consistent with the studies and recommendations of the National Telecommunications and Information Administration (the "NTIA"), the Commission has proposed the 448-450 MHz band for use

^{2/} See, e.g., 47 C.F.R. Sections 15.245, 15.247 and 15.249

There can be little doubt that the widespread use of a 915 MHz allocation by WPRs would have a devastating effect on the use of the band by a wide variety of existing and planned Part 15 devices. Based solely on the little information available in the record on Radian's Petition, it appears that WPRs would be operating at up to 500 watts of transmitter power, overwhelming virtually all low-power Part 15 operations in the band. Indeed, with WPRs operating at these power levels, it would be virtually impossible for Part 15 devices operating within any reasonable proximity to such systems to mitigate against interference. This

designed to achieve a high degree of resolution within a fairly long range. As such, the potential for interference to such receivers from even much lower powered Part 15 devices will be substantial. In sum, there is little likelihood that WPRs and Part 15 devices will be able to coexist in any reasonable physical proximity in the same frequency band; as these WPR systems proliferate, the band will have little value for Part 15 use.

This proceeding highlights the inconsistent messages that the Commission has been sending to the Part 15 community; nevertheless, it provides a reasonable starting point for the Commission to review and refine its Part 15 policies to better accommodate competing uses of the spectrum to meet the public interest. Given the substantial anticipated demands on the radio spectrum as the telecommunications infrastructure changes from one that is almost exclusively based on wired facilities, to one heavily dependent on wireless architectures, low power devices which can significantly increase spectrum utilization must be encouraged. To that end, it should no longer be the rule that licensed devices are protected and the unlicensed products must give way. Instead, it is appropriate now to consider policies that balance spectrum utilization and efficiencies with interference protection requirements. The Commission can properly conclude that WPRs need not, and should not be allocated the use of the 902-928 MHz band.

Focusing on the 902-928 MHz band for this purpose is particularly appropriate, since it was but a few years ago that the Commission decided strongly to encourage the use of that band for advanced Part 15 applications. Many proposals in the 1987 revision of Part 15 in Gen Docket 87-389 represented merely the consolidation and simplification of existing requirements. But one significant new proposal was made to permit Part 15 devices to operate in a number of new frequency bands, including the 902-928 MHz band. Of particular interest to many manufacturers was the proposal to allow operations in those new bands virtually without restriction on channelization, bandwidth or type of operation; the primary limitation would be on the field strength of emissions.

The Commission anticipated that such flexibility would enable manufacturers to introduce new equipment and advance new technological solutions without the need for ad hoc Commission rulemaking to adopt regulations necessary to accommodate each such advance. As the Commission noted in making the proposal (and later affirmed in adopting the new rules), "we expect this proposal to foster entire new categories of Part 15 devices and to provide major benefits to both manufacturers and consumers."^{3/}

At about the same time, the Commission in a separate, but related action, contemporaneously took similar steps to spur the

^{3/} Revision of Part 15 (NPRM), 2 FCC Rcd 6135, 6137 (1987); see also, Revision of Part 15 (First Report & Order) 4 FCC Rcd 3493, 3502 (1989)

development of consumer-oriented spread spectrum applications.

In July, 1990, the agency rewrote the rules governing such

determined to further accommodate such enterprises in an even more flexible, and better protected environment.

Clearly then, the Commission has recognized the substantial public interest benefits to be gained by encouraging development of unlicensed, low-power devices. It cannot be gainsaid that even with this encouragement and direction, the Commission has consistently held Part 15 devices to operating under a "cause no interference, accept and correct any interference from others" regime. In the view of the Consolidated Clients, however, the NOI provides the Commission an opportunity to recognize the efforts of the universe of entrepreneurs who are successfully operating within the Part 15 rules, by turning back any further encroachments into this recently designated Part 15 band.

The Radian proposal provides an excellent opportunity to deny any further licensed operations in this band, since any burden on WPRs which will then have to operate in the lower UHF spectrum are hardly clear. While Radian has alleged without specificity that some degree of resolution may be lost, it is not at all clear what the costs of such loss may be. Nor has a showing been made as to what costs are associated with improving the design of WPRs operating at the 450 MHz band in order to achieve the higher resolutions which might be available at 900 MHz.

Given that the NTIA and the FCC have been able to find other suitable spectrum for these worthy WPR systems, there seems

little reason to upset the use of the 902-928 MHz band to accommodate them there as well. When balanced against the likely interference that the widespread deployment of WPR systems will have on Part 15 devices already operating in the band, and the equally chilling effect that such an allocation would have on the future use of the band for the development of newer, advanced technologies, the agency must reject the Radian proposal.

In conclusion, the Consolidated Clients urge rejection of any proposal to expand the higher power, licensed use of the 902-928 MHz band, and specifically the allocation of any part of the band for Wind Profile Radar systems. Instead, it is urged that the Commission use this and other pending proceedings to review its policies governing Part 15 devices, and to establish reasonable policies designed to recognize and protect the substantial public interest benefits obtained from devices and systems operating under that Rules part.

Respectfully submitted,

WILKINSON, BARKER, KNAUER & QUINN for
THE CONSOLIDATED CLIENTS

By 

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Dated: June 15, 1993